IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 20TH DECEMBER 2006 / 29TH AGRAHAYANA 1928

WP(C).No. 15137 of 2006(B)

PETITIONER:

ELI, W/O.SEPOY SOJI ANTONY,
PATHIRAPPALLY NELLIPPARAMBIL THUMBOLY,
AMBALAPPUZHA, ALAPPUZHA DISTRICT.

BY ADV. SRI.V.KRISHNA MENON

RESPONDENTS:
----

1. **THE DIRECTOR GENERAL OF ARMED FORCES,**
   MEDICAL SERVICES (DGAFMS), ARMY HEADQUARTERS,
   NEW DELHI.

2. **CENTRAL COMMANDANT, ARMY MEDICAL CORP,**
   LUCKNOW -2.

3. **THE COMMANDANT,**
   BASE HOSPITAL, DELHI CONTONMENT 110 010.

BY ADV.SRI.JOHN VARGHESE , ASST.S.G.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.15137/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE APPLICATION DT.2.9.02 ALONGWITH THE MEDICAL REPORT SEEKING DISCHARGE FROM SERVICES.

EXT.P2:- COPY OF THE LETTER ISSUED BY THE 3RD RESPONDENT DT.3.9.03.

EXT.P3:- COPY OF THE LETTER DT.16.12.04 ADDRESSED TO THE SECRETARY, ZILA SAINIK WELFARE OFFICE, ALAPPUZHA WITH COPY MARKED TO THE PETITIONER.

EXT.P4:- COPY OF THE LETTER DT.5.4.05 ADDRESSED TO THE PETITIONER FROM THE OFFICE OF THE 2ND RESPONDENT.

EXT.P5:- COPY OF THE LETTER DT.7.9.05 SENT BY THE PETITIONER.

EXT.P6:- COPY OF THE REPRESENTATION DT.27.6.06 SENT BYTHE PETITIONER TO THE 2ND RESPONDENT.

/TRUE COPY/

tss

K.K. DENESAN, J.

= = = = = = = = = = = = = = = = =
W.P.(C)No. 15137 OF 2006 B
= = = = = = = = = = = = = = = = =

Dated this the 20th December, 2006

J U D G M E N T

In the light of the submission made by the counsel for the petitioner it is unnecessary to consider the various contentions urged in this writ petition.

2. Going by the pleadings in the writ petition, it would appear that the petitioner wanted to treat the termination of the service of her husband from the Military as a case of discharge from service, instead of desertion. She made a prayer for the disbursement of P.F. amount due to her husband.

3. A detailed counter affidavit has been filed by the respondents. The statements made therein go to show that the petitioner's husband was dismissed from service as per order dated 28-5-2006 on the charge of desertion. Therefore, the reliefs claimed by the petitioner to treat the desertion as a case of discharge cannot be granted. It is for the petitioner to seek appropriate remedy against the order of

dismissal, if so advised. Counsel for the petitioner has no quarrel that this is the correct position in law.

4. As regards the claim for P.F. the respondents say that the amount due had been credited to the account of the petitioner and it is open to the petitioner to withdraw the same. On verification, the petitioner could find that the statement made by the respondents in that behalf is correct. She has no dispute, as matters now stand, about the P.F. amount due to her husband.

5. Counsel for the petitioner submits that since the petitioner's husband has been dismissed from service, there is no scope for directing the police to arrest him and apprehend him and he prays for a declaration to that effect. Assistant Solicitor General appearing for the respondents submits that without seeking instructions in this behalf from the respondents, it may not be possible to make effective submission before this Court. Hence, without prejudice to the right of the petitioner to raise appropriate

contentions, if need be, in appropriate proceedings, this writ petition is disposed of.

K.K. DENESAN
JUDGE

jan/